**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.1344 of 2006

**25.1.2006**

Between:

K.Nageswara Rao, S/o.Ramalingeswara Rao

And others

…Petitioners

And

The Commissioner, Municipal Corporation, Kakinada,

East Godavari District

And another

…Respondents

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WRIT PETITION No.1344 OF 2006

ORDER:

The petitioners are owners of the shops situated on the main road of Jagannadhapuram, Subhash Road, Kakinada, East Godavari District. It is alleged that on 06.1.2006 the officials of Kakinada Municipal Corporation (KMC) came to the petitioners' premises and marked certain portions of the premises for demolition for widening the road from 60 feet to 80 feet. The petitioners are not willing to give consent to handover possession. The petitioners allege that the action of the respondents in proposing to demolish the premises without following due process is illegal and arbitrary.

Heard the learned Counsel for the petitioners and the learned Standing Counsel for

KMC. After getting instructions in the matter, the learned Standing Counsel for KMC submits that if the petitioners are not willing to give their consent, necessary action would be taken in accordance with Section 147 of the Hyderabad Municipal Corporation Act, 1955 (the HMC Act, for short) for acquiring the land. The learned Counsel for the petitioners does not dispute that unless the petitioners are deprived of their property in accordance with due process of law, their right to enjoy the property cannot be denied.

This Court in **P.Lakshmana Rao v. Executive Officer** and **M.Madhavi Latha v. Rajendranagar Municipality** and **Srichand Rohra v. Commissioner, Municipal Corporation of Hyderabad** has held that whenever a private property is required for laying road, widening existing road or for any public purpose, public authorities - be it local body, Corporation or Government - cannot highhandedly dispossess the petitioner or owners of the land. They have to necessarily follow the procedure either by negotiating with the owners or acquiring the land as per Section 147 of the HMC Act in case the owners are not inclined to give willingness to part with the land voluntarily. The respondent authorities cannot high-handedly take coercive action against petitioner.

Accordingly, the writ petition is disposed of observing that unless and until requisite proceedings under Section 147 of the Act are initiated, the petitioners' right to enjoy their properties cannot be denied nor KMC officials can demolish premises of the petitioners, without notice.

The Writ Petition, with the above observations and directions, is disposed of. No costs.

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(**V.V.S.RAO, J**)

January 25, 2006

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